Before the
Federal Communications Commission
Washington, D.C.20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

REPLYCOMMENTS OF THE NEBRASKA RURAL INDEPENDENT COMPANIES IN RESPONSE TO SECTIONS XVII L THROUGH R OF THE FURTHER NOTICE OF PROPOSED RULEMAKING

Dated: March 30, 2012

The Nebraska Rural Independent Companies

Paul M. Schudel (NE Bar No. 13723)
James A. Overcash (NE Bar No. 18627)
Woods & Aitken LLP
301 South 13th Street, Suite 500
Lincoln, NE68508
(402) 437-8500

Thomas J. Moorman
Woods & Aitken LLP
2154 Wisconsin Ave. NW, Suite 200
Washington, D.C.20007
(202) 944-9502
Their Attorneys

TABLE OF CONTENTS

SUMMARY OF COMMENTS

The Nebraska Rural Independent Companies ("NRIC") hereby file these Reply Comments in response to Sections XVII. L through R of the "Further Notice of Proposed Rulemaking" ("*FNRPM*") of the Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90., *et al.*, FCC 11-161 (the "*Report and Order*"), released November 18, 2011. NRIC's reply comments address the following matters.

NRIC once again demonstrates that revenue derived from intercarrier compensation ("ICC") by rate-of-return Eligible Telecommunications Carriers ("ROR ETCs") has been and is an integral component of the cost recovery associated with the deployment, operation and maintenance of the network used by large carriers to provide interexchange services to either their own presubscribed end users or to have calls sent to their customers. Likewise, since transport facilities are very important to the ability of ROR ETCs to provide voice and broadband services to rural customers, payment of proper compensation by all users of such transport facilities is essential to maintain universal service.

Therefore, the expansion of "bill and keep" to originating access, 8YY traffic and transport that is being suggested by certain parties (including the largest companies in the country) would further diminish the financial support by large carriers for the rural networks that provides universal service to rural consumers. Such a result is counter to the public interest. Moreover, any further reduction in ICC rates for originating access, 8YY traffic and transport without offsetting USF recovery will inevitably result in reduced service in rural areas, rather than expansion of ubiquitous broadband availability. Accordingly, NRIC urges the Commission to leave originating access, 8YY traffic and transport rates intact, unless or until the Commission

allows high-cost support for ROR ETCs to be properly sized to accomplish the nation's broadband goals.

In response to comments on interconnection, NRIC respectfully submits that the Commission should view any attempts to shift current carrier costs from one group of carriers to another with great skepticism. Specifically, the Commission should confirm that the law under Section 251 requires the point of interconnection ("POI") to be within a ROR ETC's network, and that the "single POI per LATA" concept has no applicability to ROR ETCs. This confirmation is particularly important now that a migration of the network from Time Division Multiplex ("TDM") to Internet Protocol ("IP") is in progress, and will ensure that entities do not use the transition from TDM to IP as a means to unlawfully foist added costs and obligations on ROR ETCs. At the same time, the Commission should reject efforts to modify the Rural Transport Rule ("RTR"). The RTR represents the proper application of the Act's interconnection requirements to ROR ETCs by properly placing the costs of a carrier's choice to utilize indirect interconnection on the carrier making such election. A proper legal analysis of Section 251 requires the network obligations of the ROR ETC to end at the POI regardless of the election of the connecting carrier to use a transit carrier, and the RTR properly reaffirms the law.

Continued use of tariffs for exchange access services continues to be in the public interest. Thus, the Commission should not forbear from tariffing requirements. NRIC respectfully submits that it makes no sense to eliminate exchange access tariffs, particularly since originating access and transport have not been eliminated by the *Report and Order* and terminating access will remain in place for years (even if courts were not to overturn bill-and-keep on appeal). Tariffs remain an efficient and readily understandable industry mechanism for the ordering of services and facilities that a requesting carrier may need for its interexchange

services. ROR ETCs should not be required to undertake the administratively burdensome and time-consuming process of negotiating and entering into numerous agreements that the elimination of access tariffs would entail.

NRIC also respectfully requests that the Commission reject the arguments that the marketplace for intermediate services is competitive and that regulation of those services is unnecessary. Proponents of this deregulation of intermediate services such as AT&T have not provided data regarding the degree of competition in rural and high cost areas of the nation relative to the provision of transit service. The Commission and the state commissions should continue to provide the necessary oversight of the terms and conditions of transit service in order to ensure such service is offered at rates, terms, and conditions that are just and reasonable.

With respect to IP interconnection issues, NRIC reiterates its position, which is supported by the record, that IP-to-IP interconnection should be governed by the Section 251/252 framework rather than by commercial agreements. The Section 251/252 framework attempts to balance the size and market power of negotiating parties by using an independent third party – the state commission or the Commission in certain circumstances – to address unresolved issues. In contrast, commercial agreements will lead to "take-it-or-leave-it" contractual propositions by the party with market power. The primary goal of any IP-to-IP interconnection framework should be to provide reasonably and comparably priced services to consumers. The Section 251/252 framework is a time-tested platform to achieve these results. Moreover, the states and the Commission must retain regulatory oversight during and after the transition from TDM-based networks to IP-based networks. A carrier must not be allowed to claim a "TDM-to-IP Interconnection" exemption from the Act based upon the assertion that its network or parts of its network have undergone a legal or regulatory reclassification due to its transition from TDM to

IP. While technology is changing, that change does not render a carrier's classification and attendant regulatory obligations obsolete.

NRIC also respectfully requests that the Commission should reject efforts to allow carriers to foist IP-related interconnection costs on ROR ETCs by mandating a limited number of POIs to which IP-based traffic is sent or by placing traffic conversion costs from IP to TDM upon a ROR ETC that uses TDM transport protocol within its network. The Commission should confirm what Section 251 of the Communications Act of 1934, as amended, requires that the POI must be within the network of the ILEC, that there can be no imposition of superior forms of interconnection on the ILEC and that nothing in Section 251(a) or Section 251(b) can impose a greater obligation upon the ROR ETC than the most onerous of interconnection obligations found in Section 251(c).

Finally, NRIC respectfully requests that the Commission reject the contention that there should be a mandatory sunset of the use of TDM within the public switched telephone network. Parties making this contention fail to explain how ROR ETCs' costs to transition from TDM to IP would be recovered. Likewise, efforts to eliminate existing TDM networks of ROR ETCs at a date certain, thereby eliminating cost recovery, would create industry chaos and should be rejected.

Before the
Federal Communications Commission
Washington, D.C.20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

REPLY COMMENTS OF THE NEBRASKA RURAL INDEPENDENT COMPANIES IN RESPONSE TO SECTIONS XVII L THROUGH R OF THE FURTHER NOTICE OF PROPOSED RULEMAKING

The Nebraska Rural Independent Companies ("NRIC"),[1] which provide telecommunications and broadband access services to some of the most-rural, sparsely populated parts of America, appreciate the opportunity to submit these Reply Comments in response to Sections XVII L through R of the Further Notice of Proposed Rulemaking issued by the Federal

[1] The Companies, each of which is a Local Exchange Carrier ("LEC"), submitting these Comments are: Arlington Telephone Company, The Blair Telephone Company, Cambridge Telephone Company, Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hamilton Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Co., K. & M. Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telecom Inc., and Three River Telco.

Communications Commission (the "Commission").[2] Notwithstanding legal challenges and reconsideration requests that have been filed with respect to the *Report and Order* and without waiver of the positions that NRIC may take on such issues,[3] these comments are based upon the conclusions made in the *Report and Order* and *FNPRM* and the comments thereon which have been filed with regard to Sections XVII L through R of the *FNPRM***.**

I. UNIVERSAL SERVICE IS SUPPORTED BY THE LARGEST CARRIERS ONLY IF THEY ARE NOT REQUIRED TO PAY FOR THEIR USE OF RURAL NETWORKS.

Predictably, the largest carriers will receive the greatest economic benefits associated with the Commission's ordering of "bill and keep" for terminating intercarrier compensation ("ICC") and capping of federal universal service support for rate-of-return ("ROR") carriers. These same large carriers now seek to expand that windfall by urging the Commission to expand bill-and-keep to originating access, 8YY traffic and transport. But as NRIC has demonstrated,[4] the revenue derived from ICC by ROR Eligible Telecommunications Carriers ("ROR ETCs")[5]

---

[2] *See*, Report and Order and Further Notice of Proposed Rulemaking, Public Notice, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, released November 18, 2011. In these Comments, references to paragraphs 1 through 1011 will be noted as being from the "*Report and Order"* and references to paragraphs 1012 through 1403 will be noted as being from the "*FNPRM*". For simplicity, NRIC will use the name of the filing entity and "comments" when referencing the submissions of other parties that were filed on or before February 24, 2012 in response to Section XVII L through R of the *FNPRM*. NRIC's February 24, 2012 Comments are referred to in these Reply Comments as the "*NRIC Comments*."

[3] NRIC notes that reconsideration requests have been filed regarding certain aspects of the *Report and Order* and petitions for review of the Commission's action have been consolidated in the United States Court of Appeals for the Tenth Circuit (the "Tenth Circuit"). Nothing in these comments can be or should be used as a means of thwarting consideration of the substantive positions raised or to be raised by NRIC in response to the reconsideration requests or with regard to the petitions for review pending before the Tenth Circuit.

[4] *See, NRIC Comments* at 3, 5-6, 9-10; *see also*, Comments of the Nebraska Rural Independent Companies, WC Docket No. 10-90, *et al*., filed April 18, 2011 at 25-34.

[5] NRIC uses the term "ROR ETCs" to define a subset of rural incumbent local exchange carriers

has been and is an integral component of the cost recovery associated with the deployment, operation and maintenance of the network used by these largest carriers to provide interexchange services to either their own presubscribed end users or to have calls sent to their customers. As a result, the suggested expansion of "bill and keep" to originating access, 8YY traffic and transport would further diminish the support by large carriers for the rural networks that provides universal service to rural consumers and to shift that network cost recovery to universal service support mechanisms. Such a result is unquestionably counter to the public interest and, even if a legal basis exists for imposing bill and keep on originating access, this policy change should only be considered if increased federal USF is available to ROR ETCs.

A. Carriers that Advocate Adoption of Bill-and-Keep for Originating Access and 8YY Traffic, and at the Same Time Insist on Compensation for Middle Mile, Long Haul and Transiting Services are Advancing Specious Arguments that Undermine Existing Policy that Requires Universal Service.

Consistent with NRIC's recommendations in the *NRIC Comments*, there is widespread support from numerous parties for maintaining ICC for originating access and 8YY traffic.[6] At the same time, wireless carriers and other large carriers that may not have the same commitment as ROR ETCs to serve sparsely populated, rural areas predictably recommend bill-and-keep for

("RLECs") that have been designated as Eligible Telecommunications Carriers. Each of the NRIC member companies is an ROR ETC and an RLEC.

[6] *See*, Alaska Rural Companies Comments at 3; Frontier Comments at 2; Windstream Comments at 3; TCA Comments at 2-4; National Exchange Carrier Association ("NECA"), National Telecommunications Cooperative Association ("NTCA"), Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO") and Western Telecommunications Alliance ("WTA") ("Rural Associations") Comments at 18, Regulatory Commission of Alaska ("Alaska Commission") Comments at 19; CenturyLink Comments at 7-8; GVNW Consulting ("GVNW") Comments at 8-9; ITTA Comments at 2-3 ; Moss Adams Comments at p. 8

this traffic.[7] Those contentions can and should be rejected for the reasons stated by NRIC and other rural carrier interests.

One proponent of bill-and-keep for originating access and 8YY traffic, AT&T, takes a contradictory position when it relates to the use of AT&T's network. Specifically, AT&T argues against imposition of bill-and-keep for other intercarrier services including middle mile, long haul and transiting services, and instead calls for payment of non-regulated rates for these services.[8] AT&T's arguments for maintaining compensation for services that it labels "intermediate" transport and transiting services (while at the same time arguing for bill-and-keep for the use of originating networks it does not own) mirror the arguments that NRIC and other rural network providers have repeatedly made in support of maintaining existing originating and terminating ICC arrangements. AT&T states that provision of these functions "for free, with no hope of cost recovery from anyone who is involved in the relevant traffic exchanges (and who thus can be said to 'cause' the relevant costs) . . . would give other carriers "overwhelming incentives to stop any further build-out of their networks."[9]

These AT&T concerns are precisely the concerns that ROR ETCs have with being forced to provide originating and terminating services for free. However for ROR ETCs, given constraints on USF and no other revenue sources, maintaining reasonable ICC revenues is a matter of survival. Ultimately, AT&T cannot have it both ways. If AT&T is permitted to

---

[7] *See*, Time Warner Comments at 18; CTIA Comments at 4; Leap/Cricket Wireless Comments at 4; MetroPCS Comments at 5-6; T-Mobile Comments at 9; AT&T Comments at 71; Comcast Comments at 4. Verizon stops short of recommending elimination of originating access charges, but calls for immediate reductions in originating 8YY rates. *See*, Verizon Comments at 5.

[8] *See*, AT&T Comments at 53-54. AT&T calls this a "coherent bill-and-keep framework," even though NRIC notes the services that AT&T provides would not be offered at bill-and-keep.

[9] *See, id.* at 57 and *see generally, id.* at 54-57.

continue to charge for intermediate transport and transiting services, its arguments for imposition of bill-and-keep for originating access and 8YY services must be rejected or universal service in rural America will be further eroded.

B. Continued Compensation for ROR ETC Transport Services Is Essential to Maintain Universal Service.

NRIC previously emphasized the importance of transport facilities for rural carriers such as the members of NRIC in providing voice and broadband services to their overwhelmingly rural customer base, and hence the importance of payment of proper compensation by all users of those transport services.[10] Since ROR ETCs, such as the NRIC member companies, primarily serve customers in very rural areas, a larger portion of their network investments and costs are devoted to transport services than carriers that serve a mix of customers in both urban and rural areas. In provisioning broadband services, ROR ETCs incur significant costs in constructing their own transport networks and paying other providers for middle-mile and long-haul services. In provisioning of public switched telephone network ("PSTN")-interconnected voice services, ROR ETC transport costs have been partially offset by payment of ICC by interexchange carriers ("IXCs") and wireless carriers (although non-access rates for transport and termination between incumbent local exchange carriers ("ILECs") and commercial mobile radio service ("CMRS") providers have been ordered to bill-and-keep by the Commission).

Based upon the foregoing circumstances, NRIC is pleased to note the recognition by certain commenters of the continued need for payment of these transport rates for the use of

[10] *See, e.g.*, USF reform panel presentation by Ken Pfister of Great Plains Communications Inc. ("Great Plains") to National Association of Regulatory Utility Commissioners Staff Subcommittee on Telecommunications, summer 2010 conference, at 13, which stated: "Great Plains has 2,500 miles of transport fiber across 14,000 square miles of rural Nebraska; that network cannot be duplicated." Many NRIC member companies and rural carriers nationally have constructed and operate comparably large transport networks.

ROR ETCs' networks in order to maintain universal service.[11] Nonetheless, parties that do not prioritize operations in rural areas, let alone operate transport networks in those areas, seek to eliminate transport rates as well as to place unlawful transport routing requirements on ROR ETCs.

Wireless providers and their representatives including CTIA,[12] Leap/Cricket Wireless,[13] MetroPCS[14] and T-Mobile[15] call for elimination of either rural local exchange carrier ("RLEC") transport rates, the so-called "Rural Transport Rule" governing CMRS-to-RLEC non-access traffic,[16] or both.[17] AT&T takes this position one step further, advocating a one-sided (to its favor) interconnection framework that would limit the Rural Transport Rule solely to locally-dialed intraMTA calls and only for the 9-step ICC reform transition by ROR ILECs to bill-and-keep for terminating traffic. For all other traffic, AT&T seeks both to require ROR ILECs to deliver traffic to network "edges" that are outside ROR ILEC service areas, and to require bill-and-keep as the end state for other PSTN-related ICC, presumably including transport rates.[18]

---

[11] *See,* Indiana Utility Regulatory Commission Comments at 7-8; Rural Associations Comments at 18; Alaska Commission Comments at 7.

[12] *See,* CTIA Comments at 9.

[13] *See,* Leap/Cricket Wireless Comments at 12.

[14] *See,* MetroPCS Comments at 8.

[15] *See,* T-Mobile Comments at 12-14.

[16] This Commission interim rule requires CMRS carriers that exchange traffic with ROR ETCs to do so at points of interconnection that are located within an ROR ETC's service area. *See, Report and Order,* at para. 999. While NRIC supports the principles behind such a rule, it has observed in its Comments that Section 251 of the Act and ensuing Commission orders provide indisputable guidance on interconnection requirements within ROR ETC networks. Thus, NRIC views the Rural Transport Rule as a confirmation of existing law and Commission orders. *See generally, NRIC Comments* at 20-23.

[17] *See generally,* Section II.B *infra*.

[18] *See,* AT&T Comments, Appendix A, at 2-4, 7-8.

None of these recommendations by the wireless providers or AT&T should be adopted by the Commission. These recommendations not only run afoul of the law, but also endanger continuation of universally available services to these rural areas served by NRIC member companies and other ROR ETCs. The Commission should continue to require payment of compensation for rural transport services, both switched and IP-based.

C. The Record Is Clear: If Existing Rural Networks are to be Maintained, Much Less Expanded, ICC Rates Cannot Go to Bill-and-Keep.

Regarding the issue of future treatment of originating access and transport rates, a crystal clear picture has emerged in the record. Parties that are committed to serving rural areas and consumers call for the continuation of ICC compensation, particularly with the Commission having already determined that federal USF will be limited to a budget of $2 billion for ROR ETCs. Even price cap carriers that serve a mix of urban and rural markets – and thus have a larger, more densely populated base of customers from which to recover costs – urge the Commission to not proceed with additional reductions in ICC until the Commission evaluates or completes the terminating transition.[19] The fact that these larger carriers take this position underscores the need to maintain universal service in rural areas, and that the situation will worsen if the Commission reduces or eliminates originating and transport ICC. On the other hand, other parties that do not have a business priority of serving rural areas line up behind elimination of these ICC fees.

NRIC believes that this divergence of positions appears to be centered on whether a carrier is a rural network builder or a rural network user.[20] Carriers that have the responsibility

[19] *See*, Windstream Comments at 3, Frontier Comments at 2.

[20] *See, e.g.*, Section XV NRIC Reply Comments, WC Docket No. 10-90, *et. al.*, filed April 18, 2011, at 8-10.

for serving all customers in their rural service areas support continuation of compensation from other carriers that utilize their facilities. Conversely, carriers that do not have such responsibilities or interest in serving these rural areas seek to eliminate or, at a minimum, to drastically reduce their costs to use rural networks. This gap is becoming even more pronounced with the Commission's capping of the overall size of the federal USF, thus limiting possible recovery of additional ICC reductions from USF. Any further reduction in these ICC rates without offsetting USF recovery will inevitably result in reduced service in rural areas, rather than expansion of ubiquitous broadband availability. NRIC urges the Commission to leave originating access and transport rates intact, unless or until the Commission takes the proper and politically courageous step of allowing high-cost support for ROR carriers to be properly sized to accomplish the nation's broadband goals. To do otherwise will doom broadband deployment and existing universal service in rural areas, as the record demonstrates.

II. THE COMMISSION SHOULD VIEW ANY ATTEMPTS TO SHIFT CURRENT CARRIER COSTS FROM ONE GROUP OF CARRIERS TO ANOTHER WITH GREAT SKEPTICISM.

A. The Commission Should Confirm that the "Single POI Per LATA" Concept is Inapplicable to ROR ETCs.

In response to the Commission's request for comment regarding maintenance of current point of interconnection ("POI") rules,[21] NRIC advocates that the Commission should reiterate the status of Section 251 requirements regarding interconnection, should reaffirm that the principles which the Commission has already enunciated regarding "escalating" levels of interconnection obligations, [22] and should avoid inaccurate statements regarding alleged interconnection

[21] *FNPRM* at para. 1316.

[22] *See, In the Matter of Total Telecommunications Services, Inc. and Atlas Telephone Company, Inc. v. AT&T Corporation, Memorandum Opinion and Order*, File No. E-97-003, FCC 01-84, released March 13, 2001 ("*Total Communications*") at para. 25.

arrangements being applicable industry-wide.[23] These actions by the Commission will not only avoid improper construction of the requirements of Section 251 but will also eliminate potential arbitrage opportunities that could otherwise be avoided.

T-Mobile urges the Commission to limit each telecommunications corporate entity to one POI per state where a carrier could exchange traffic with an ILEC and all of the ILEC's affiliates.[24] Minimally, T-Mobile contends that the single POI per LATA rule should apply uniformly to all ILECs, and that an ILEC and all of its affiliates should be limited to one POI per LATA.[25] T-Mobile's position is without merit because, among other things, this position ignores the fact that the POI must be within the ILEC's network and that the Act's structure does not permit the imposition of transport and switching obligations upon the ILEC superior to those the ILEC provides to its local end users.[26]

Likewise, while Sprint also erroneously contends that the Commission should extend the single POI per LATA rule to all telecommunications carriers,[27] Sprint at least admits, citing the *FNPRM* at para. 1317, that "rural ILECs and competitive carriers are not currently subject to the single-POI per LATA rule."[28] In this regard, Sprint bases its position on the fact that the "FCC adopted this rule pursuant to § 251(c)(2) of the Act, and this statute, as a practical matter, applies to large ILECs only."[29] Nonetheless, Sprint's ultimate position is irreconcilable with the fact that Section 251 provides for an "escalating" set of interconnection duties in which Section 251(a)

---

[23] *See, NRIC Comments* at 20-21.

[24] *See,* T-Mobile Comments at 13.

[25] *See, id*.; *see also,* Charter Communications, Inc. Comments at 12-13.

[26] *See NRIC Comments* at 22.

[27] *See,* Sprint Nextel Corp. ("Sprint") Comments at 34.

[28] *Id.* at 34-35.

[29] *Id.*

cannot possibly impose an obligation greater than Section 251(c).[30] Sprint's contention regarding Section 251(a), therefore, has no merit and has already been rejected by the Commission.

In any event, NRIC has already demonstrated that the law under Section 251 requires the POI to be within the ROR ETC's network and cannot require the provision of a superior form of interconnection. Moreover, NRIC has also demonstrated that the concept of a single POI per LATA is an outgrowth of a private contract with a Bell Operating Company, a contract that had nothing to do with any ROR ETC.[31]

Efforts to muddle these facts need to end. Accordingly, NRIC again respectfully suggests that the Commission should state that no industry-wide single POI per LATA concept exists under Section 251 and that nothing in Section 251 requires a ROR ETC to assume operational and financial responsibility for the provision of transport facilities beyond its established network facilities.[32] This action will confirm the proper applicability of the interconnection requirements under Section 251, regardless of whether the compensation regime is bill-and-keep or some other form of ICC.[33]

---

[30] *Total Communications* at para. 25.

[31] *See, NRIC Comments* at 21-23.

[32] *See, id*.; *see also,* Reply Comments of the Nebraska Rural Independent Group, WC Docket No. 10-90, *et al*., filed May 23, 2011 at 39-45.

[33] The resolution of these issues should be based on the following bed rock interconnection principles:

(1) A POI must be at a technically feasible point *within the ILEC's network*;

(2) It is unlawful to impose a transport requirement upon the ILEC that is superior to that which the ILEC provides to its own end users and/or affiliates and thus violates the "equal in quality" requirement found in Section 251(c)(2)(C); and

(3) Since the Section 251 interconnection obligations found in Sections 251(a), (b) and (c) reflect an escalating set of interconnection obligations, there can be no more onerous requirements imposed upon an ILEC under a Section 251(a) or a

The fact that several commenting parties advocate positions similar to the foregoing is not, therefore, surprising. Windstream urges the Commission to maintain current POI rules.[34] Similarly, CenturyLink advocates that the Commission "maintain the economic and structural balance of PSTN interconnection in the bill and keep end state . . . . Altering this balance risks damaging not just universal service and consumer welfare but, also the efficient evolution to IP-based networks . . ."[35] This support is not limited to ILECs, however.

Recommendations that the Commission preserve existing rules regarding POIs for exchanging Time Division Multiplex ("TDM") traffic have also been made by non-ILEC entities. In response to paragraph 1316 of the *FNPRM,* XO Communications states:

> The current interconnection rules have led to well-established POIs for exchanging TDM traffic and there is little reason to believe that those POIs will or should be modified simply because the rate levels are being reduced. There is nothing inherent in the fact that the rate levels are approaching and eventually become zero that would dictate a change in POI configurations.[36]

Further, NRIC respectfully submits that these affirmations are particularly appropriate now that a migration of the network from TDM protocols to Internet Protocol ("IP") (or packet switched) based protocols is in progress. As explained in Section IV, *infra,* NRIC agrees with the

---

> Section 251(b) obligation or a combination of both than that required of the ILEC under Section 251(c).

See, NRIC Comments at 22-23 *citing* 47 U.S.C. § 251(c)(2)(B), 47 U.S.C. § 251(c)(2)(C), *Iowa Utils. Bd. v. Federal Communications Commission*, 219 F.3d 744, 758 (8th Cir. 2000); *see also, Iowa Utils. Bd. v. F.C.C.*, 120 F.3d 753, 813 (8th Cir. 1997) at 813 and *Total Communications* at para. 25.

[34] *See,* Windstream Comments at 12-13. "The current obligation to interconnect at one POI per LATA applies only to RBOCs, pursuant to Section 271, and has never applied generally to incumbent LECs under the Section 251 regime." [footnotes omitted]; *see also,* Rural Association Comments at 19-27.

[35] *See,* CenturyLink Comments at 22.

[36] *See,* XO Communications ("XO") Comments at 7.

Commission[37] that the operative language of Section 251 is technology-neutral. Thus, affirmation of the principles noted above will ensure that entities do not use the transition from TDM to IP as a means to unlawfully foist added costs and obligations on ROR ETCs.

B. The Rural Transport Rule is the Proper Application of the Act's Interconnection Requirements to ROR ETCs.

T-Mobile urges the Commission to immediately terminate the Rural Transport Rule.[38] T-Mobile claims that this rule allows ROR ETCs to "require other carriers to transport traffic well beyond any reasonable RLEC network edge deep into RLEC service territories" and further claims that the rule is "anticompetitive and unbalanced."[39] NRIC strongly disagrees with these claims.

First, by applying the proper Section 251 legal analysis demonstrated by NRIC in its comments, requiring the network obligations of the ROR ETC to end at the POI regardless of the election of the connecting carrier to use a transit carrier, the Rural Transport Rule effectively reaffirms the law.[40] Second, T-Mobile provides no evidence to substantiate its claim that excessive transport costs will be shifted by ROR ETCs to competitive carriers pursuant to the Rural Transport Rule. Finally, CMRS carriers often have implemented indirect interconnection arrangements with ROR ETCs at a tandem switch or switches at distant points from ROR ETCs' service areas. In a manner consistent with the law, the Rural Transport Rule ensures that significant and burdensome transport costs will *not* be unfairly shifted to rural carriers. T-Mobile's claim that the Rural Transport Rule is anticompetitive and unbalanced is exactly backwards. The Rural Transport Rule properly places the costs of the choices made with respect to indirect

---

[37] *See, e.g., FNPRM* at para. 1342.

[38] *See, Report and Order* at paras. 997-999.

[39] *See,* T-Mobile Comments at 14-15. NRIC is also opposed to CTIA's "METE" proposal (CTIA Comments at 5-9), to AT&T's proposed default network edge proposal (AT&T Comments at 67-71 and Appendix A) and to Sprint's 50/50 default sharing rule (Sprint Comments at 34-38).

[40] *See, NRIC Comments* at 21-24; *see also,* 47 C.F.R. §51.709(c).

interconnection on the CMRS provider choosing that form of interconnection, a result entirely consistent with the law.

By reiterating the proper application of Section 251(c) requirements as noted in Section II.A above, coupled with the *Total Communications* discussion of escalating interconnection obligations, the Commission need only define the network edge for ROR ETCs as coincidental with the physical POI within the ROR ETC's network. Consistent with this approach and the Act's requirements, the Commission also should affirm that the terminating ROR ETC is not expected to incur additional costs beyond its network.

In any event, NRIC supports the Commission's statement that states should establish the network edge pursuant to Commission guidance in the manner suggested by NRIC.[41] Compliance with the law as demonstrated by NRIC will ensure that this guidance is grounded in the Act and the proper interconnection requirements provided in it, and will help mitigate future intercarrier disputes and administrative litigation. Administration of these guidelines is appropriately assigned to state commissions in light of the fact that arbitrations concerning issues arising out of interconnection disputes rest with state commissions under Section 252 of the Act.[42]

C. The Commission Should Not Forbear From Tariffing Requirements.

Not surprisingly, carriers with the potential to use market power, or their advocacy groups, support Commission action to forbear from tariffing requirements.[43] For example, CTIA states that the Commission should "take steps to move toward market-based negotiations" rather than

---

[41] *See, FNPRM* at para. 1321.

[42] At least one state commission, the California Public Utilities Commission, in its filed comments has specifically requested Commission guidance on delineating the network edge and related issues so that state commissions can effectively address these matters. *See,* California PUC Comments at 7-8.

[43] *See,* AT&T Comments at 74-76; Sprint Comments at 49-51; and CTIA Comments at 9-10.

continuing use of tariffs because negotiated agreements "best promote flexibility and efficiency."[44] While AT&T argues that the Commission has the authority to require all carriers to negotiate interconnection agreements in lieu of relying on filed tariffs based upon the reasoning set forth in the *T-Mobile Order,* AT&T (without any policy-based justification) seeks to have the Commission require ROR ETCs to de-tariff their services.[45] Sprint argues for Commission establishment of a deadline following which LECs may no longer rely on access tariffs.[46] Like AT&T, and in lieu of Rather than providing any compelling rationale for this proposition, Sprint questions the Commission's prediction that LECs will primarily rely on negotiated interconnection agreements rather than tariffs.[47] NRIC respectfully submits that these contentions should be rejected outright.

The Commission was correct in its view that "generally continuing to rely on tariffs while also allowing carriers to negotiate alternatives during the transition is in the public interest."[48] For small ROR ETCs, the costs associated with resource-intensive Section 252 negotiations and arbitrations, including the potential of Federal court appeals as compared to the wherewithal of a larger carrier, are but examples of the lack of real bargaining power of ROR ETCs. In such circumstances, a small ROR ETC lacks the resources to negotiate (and, as necessary, litigate) fair and equitable interconnection agreement terms and conditions with larger carriers. Further, given the large number of service providers that exchange traffic even with small ROR ETCs, it is practically infeasible to negotiate interconnection agreements with individual carriers which

---

[44] *See,* CTIA Comments at 9-10.

[45] *See,* AT&T Comments at 74-75 citing *Developing a Unified Intercarrier Compensation Regime and T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs,* 20 FCC Rcd 4855, 4863-65 paras. 14-16 (2005).

[46] *See,* Sprint Comments at 49-50.

[47] *See, FNPRM* at para. 1323.

[48] *Id.* at para. 1322.

may individually terminate modest amounts of traffic to a ROR ETC, but in the aggregate with other carriers deliver material amounts of terminating traffic. The combination of all of these circumstances fully justify continuation of the availability of tariffs.[49]

Accordingly, NRIC respectfully reiterates its statement in previously filed comments that it makes no sense to eliminate exchange access tariffs, particularly since originating access and transport have not been eliminated by the *Report and Order* and terminating access will remain in place for years (even if courts were not to overturn bill-and-keep on appeal).[50] Tariffs remain an efficient and readily understandable industry mechanism for the ordering of services and facilities that a requesting carrier may need for its interexchange services. ROR ETCs should not be required to undertake the administratively burdensome and time-consuming process of negotiating and entering into numerous agreements that the elimination of access tariffs would entail. Therefore, ROR ETCs should be allowed to continue to file tariffs subject to approval by the appropriate regulatory authority as long as such tariffs reflect rates, terms, and conditions consistent with Commission and state commission rules and requirements.

III. THE COMMISSION AND THE STATES SHOULD HAVE OVERSIGHT OVER THE TERMS AND CONDITIONS OF TRANSIT SERVICE.

Not only does AT&T argue against protections afforded to carriers under the Act when such carriers attempt to establish interconnection with AT&T's last-mile facilities, AT&T also argues against any regulatory oversight in its provision of what AT&T terms "intermediate services" more commonly referred to in the telecommunications industry as "transit" service.

---

[49] *See generally,* Rural Association Comments at 27-31 for a further discussion of the rationale supporting the conclusion that the Commission should not forbear from the Act's tariffing requirements. Preservation of current tariffing requirements is also supported by other commenting parties. *See,* CenturyLink Comments at 25; Windstream Comments at 12; ITTA Comments at 4-5; and GVNW Comments at 14.

[50] *See, NRIC Comments* at v and 24.

Ultimately, AT&T simply argues that the marketplace for intermediate services is competitive and that regulation of those services is unnecessary.[51] AT&T's contentions should be rejected.

First, AT&T's proposed bill-and-keep framework relates *only* to the PSTN and only to "last mile" networks directly serving subscribers. However, in light of the fact that AT&T is a prominent provider of transit service and Internet peering and transit, the financial windfall to AT&T is obvious because under AT&T's proposal, the "last mile" networks of other carriers may be used "free of charge" (*i.e.*, under bill-and-keep) while others pay AT&T to get to those "last mile" networks through commercially negotiated agreements for transit.[52]

AT&T contends that it should be paid for network functions it provides to carriers while the "last mile" network providers are not compensated. Just as AT&T, which owns intermediate networks, argues that the Commission cannot force "third-party intermediaries" to perform intermediate transport or transit for free with no hope of cost recovery,[53] that is precisely the impact on "last mile" network providers under the "bill and keep" scenario AT&T supports. At the same time that AT&T is making these claims for an entitlement to compensation for the services it provides, AT&T also argues that transit service should *not* be regulated, and that the competitive marketplace, not the Commission or individual state commissions, should set the applicable rates.[54] Yet, AT&T provides no data regarding the degree of competition in rural and high cost areas of the nation in providing transit service. AT&T's proposal should be rejected.

---

[51] *See*, AT&T Comments at 7.

[52] *Id*. at 53-54.

[53] *Id.* at 57. AT&T has stripped telecommunications nomenclature from its proposal, and is now using terms such as "sending company" instead of originating party, and "third party intermediaries" and "third party contact companies" in place of transit providers.

[54] *Id*. at 58.

Equally suspect is AT&T's assertion that the Commission has no legal authority to regulate the rates for these transit services under the Act's 251/252 framework. According to AT&T, these services are not subject to rate regulation under Sections 251(b)(5) and 252(d)(2) apparently because those statutory provisions relate only to compensation for the "transport *and termination*" of traffic, and by definition intermediate third parties do not "terminate" traffic.[55] Many other parties disagree. For example, the Rural Associations recommend that the rates for these services be regulated in a similar manner to other switched services.[56] The Rural Associations believe that a failure by the Commission to regulate transit rates in a similar manner will put certain carriers in the position of charging discriminatory rates for this service.[57] Further, the Rural Associations recommend that any ICC reforms that affect transit and other transport and tandem switching rate elements should be undertaken in accordance with Sections 251 and 252 of the Act, pursuant to which prices are set by state commission in accordance with a reasonable methodology established by the Commission.[58] In addition, a number of federal courts have indicated that transit services are subject to the Section 251/252 framework.[59]

Likewise, the National Cable and Telecommunications Association ("NCTA") recommends that the Commission ensure the availability of transit service at reasonable rates, terms and, conditions.[60] NCTA and Sprint both assert that Section 251(c) of the Act requires

---

[55] *Id*. at 59.

[56] *See*, Rural Association Comments at 16.

[57] *See, id*. at 17.

[58] *See, id*. at 18-19.

[59] *See, e.g., Qwest Corp. v. Cox Nebraska Telcom, LLC*, 2008 WL 5273687 (D. Neb. 2008); and *Brandenburg Tel. Co. v. Windstream Kentucky East, Inc*., Case No. 2007-0004, Order, 2010 WL 3283776 (Ky PSC Aug. 16, 2010).

[60] *See,* Rural Association Comments at 3.

these services to be provided at cost-based rates.[61] GVNW argues that if the Commission does not set reasonable parameters for transit service, ROR ETCs "will be required to pay whatever price a transit provider chooses to extort."[62]

In the end, NRIC agrees with the observations noted above that oppose AT&T's claims. NRIC urges the Commission and the state commissions to provide the necessary oversight of the terms and conditions of transit service thereby ensuring such service is offered at rates, terms, and conditions that are just and reasonable.

IV. NRIC'S SUGGESTED FRAMEWORK SHOULD BE ADOPTED FOR IP-TO-IP INTERCONNECTION.

NRIC offered a logical interconnection framework in the *NRIC Comments* that properly provides for a lawful framework for IP-based interconnection consistent with the requirements of Sections 251 and 252 of the Act, and administrative decisions and case law developed over more than 15 years regarding implementation of that framework.[63] No need exists to "reinvent the wheel" or to mandate the abandonment of current technology within the PSTN. As such, any contentions that deviate from the continuation of the Section 251/252 process for interconnection and that otherwise attempt to foist additional costs on ROR ETCs in the name of the migration to "IP-to-IP" interconnection framework should be rejected outright by the Commission.

A. IP-to-IP Interconnection should be Governed by the Section 251/252 Framework.

Not surprisingly, other commenting parties agree with NRIC that IP-to-IP interconnection should continue to be subject to the 251/252 process.[64] Also not surprisingly, in

[61] *See, id*. at 4; Sprint Comments at 59.

[62] *See*, GVNW Comments at 12.

[63] *See, NRIC Comments* at 27-29.

[64] *See, e.g.*, GVNW Comments at 15-16; Rural Association Comments at 38-40; YMAX

lieu of the Section 251/252 process, certain of the largest carriers that have submitted comments contend that commercial agreements should be the framework for IP-to-IP interconnection.[65] However, this latter contention should be rejected on at least two bases.

First, conspicuously absent from the comments that urge the use of commercial agreements for IP-to-IP interconnection is any sustainable explanation as to why there should not be oversight by a regulatory body to ensure that such negotiations are, in fact, "arm's length" and not subject to abuses attendant to unequal bargaining positions based on market dominance. Rather, the underlying response to these contentions is, effectively, "trust the market place to govern" in lieu of regulation.[66] However, one cannot disassociate the fact that the parties seeking such a result from the Commission are, in fact, among the largest corporations not only in the communications marketplace but also in the world,[67] and thus possess the economic power to dominate smaller carriers. Nor can one ignore the fundamental changes in the marketplace that create even greater risks that the largest carriers will dominate markets. For example, Verizon advocates that the local market is competitive because both cable and local exchange carriers serve customers,[68] while Verizon simultaneously is engaging in new "marketing"

Comments at 10; US Telepacific and MPower Comments at 8. NRIC notes that Sprint erroneously contends that the Section 251/252 framework applies to a "narrowband" world. *See,* Sprint Comments at 6-7. The Commission has already properly noted that the applicable Section 251 provisions are technology neutral (*see, FNRPM* at 1342) and NRIC confirmed that analysis based on the underlying definitions that are integral to the Section 251 framework is critical. *See, NRIC Comments* at 27, n.55.

[65] *See, e.g.,* AT&T Comments at 10, 13, 34-47 (General contentions that Section 251 does not provide the Commission jurisdiction over IP-to-IP interconnection.); Comcast Comments at 20; and Verizon Comments at 19-21.

[66] *See, e.g.,* AT&T Comments at 13-14; Comcast Comments at 20; and Verizon Comments at 19-20.

[67] *See,* http://money.cnn.com/magazines/fortune/fortune500/2011/full_list/.

[68] *See,* Verizon Comments at 10.

arrangements with several of the largest cable companies in the United States – Comcast, Time Warner, Cox Communications and Brighthouse Networks.[69] The Section 251/252 framework attempts to balance the size and market power of negotiating parties by using an independent third party – the state commission or the Commission in certain circumstances[70] – to address unresolved issues. In contrast, commercial agreements will lead to "take-it-or-leave-it" contractual propositions by the party with market power.[71]

Second, while it is true that the Section 251/252 framework involves regulatory aspects – such as interconnection standards and, where applicable, pricing requirements – those requirements are aimed at avoiding the negative impact that market size and dominance would have on smaller entities.[72] No standards exist to ensure that commercial agreements are available in a manner that advances rational public policies, whereas Section 252 explicitly provides for such standards.[73] Under current IP financial arrangements,[74] large carriers of equal size exchange traffic on a bill-and-keep basis, while small carriers must pay large carriers. If the

---

[69] *See, e.g., In the matter of Application of Cellco Partnership d/b/a/ Verizon Wireless and Spectrum Co LLC For Consent to Assign Licenses; Application of Cellco Partnership d/b/a Verizon Wireless and Cox TMI Wireless, LLC For Consent to Assign Licenses, Order*, WT Docket No. 12-4, DA 12-367, released March 8, 2012 at paras. 1-2; *see also* http://www.ncta.com/Stats/TopMSOs.aspx.

[70] *See*, 47 U.S.C. § 252(b); *see also* 47 U.S.C. 252(e)(5).

[71] Of course, one way to test the appropriateness of the underlying "commercial agreements" to ensure that small businesses and small telecommunications carriers are being offered rates that are just, reasonable and non-discriminatory is to require those entities that have such "commercial agreement" to publicly file such agreements on an un-redacted basis. If the agreements work, and if all of the large carriers have entered into them among each other, NRIC questions whether any claim of competitive harm due to their disclosure can be sustained.

[72] *See, e.g., In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Radio Service Providers, First Report and Order*, CC Docket Nos. 96-98, 95-185, 11 FCC Rcd 15499, 15570-71 (para. 141) (Aug. 8, 1996).

[73] *See, e.g.*, 47 U.S.C. §252(e)(1).

[74] *See, e.g.*, AT&T Comments at 13.

advocacy of large carriers is adopted and commercial agreements replace regulatory oversight under Section 252, the amount a small carrier would pay would be at the mercy of large carriers with market power.

The primary goal of any IP-to-IP interconnection framework should be to provide reasonably and comparably priced services to consumers.[75] The Section 251/252 framework is a time-tested platform to achieve these results. NRIC respectfully requests that the Commission should reject the use of commercial agreements and the resulting potential for even greater windfalls to the largest carriers in addition to those that the *Report and Order* has already provided.

B. The States and the Commission must Retain Regulatory Oversight During and After the Transition from TDM-Based Networks To IP-Based Networks.

Carriers are in different stages of transitioning their networks from TDM-based networks to IP-based networks. During this transition and even after such transition is complete, the Commission and the states must continue to retain regulatory oversight to ensure established rules governing interconnection rights and obligations are not violated based on claims that IP networks are not subject to the Act. IP-based telephone services provide functionalities that closely resemble traditional TDM-based telephone services. Consistent with the Commission's finding that "nothing in the language in Section 251 limits the applicability of a carrier's statutory interconnection obligations to circuit-switched voice traffic,"[76] NRIC maintains that during the transition from TDM to IP, the established requirements of Sections 251/252 and the rules governing interconnection of carriers' networks must continue to be applicable in order to ensure seamless provision of services.

---

[75] *See, NRIC Comments* at 25-27.

[76] *FNPRM* at para 1381; *see also NRIC Comments* at 27, and n.55.

As stated in the *NRIC Comments*, reaffirming and applying this framework now will avoid shenanigans such as a carrier suggesting that its status has been somehow transformed because it uses a particular protocol to exchange traffic, or a carrier ignoring the structure of the Act in an effort to gain an unfair market advantage.[77] In addition, NRIC has stated its concern that some entities could twist certain questions raised in the *FNPRM* to suggest that the migration from TDM to IP has somehow magically changed the PSTN into a new network subject to new rules beyond the reach of the Act. A carrier must not be allowed to claim a "TDM to IP Interconnection" exemption from the Act based upon the assertion that its network or parts of its network have undergone a legal or regulatory reclassification due to its transition from TDM to IP. NRIC's underlying concerns were not mere speculation.

Verizon, for example, claims that "the network facilities that route and carry IP traffic are not add-ons to the legacy circuit-switched PSTN."[78] Although fiber-optic communications were developed in the late 1970s and early 1980s, Verizon nonetheless claims that these facilities "are wholly new networks and wholly new technologies."[79] Regardless of the fact that carriers have invested in and deployed fiber facilities over time for use in the circuit switched network, Verizon claims that, unlike the circuit-switched PSTN, IP networks require providers to invest in and deploy next generation broadband networks, where there is no legacy regulatory history.[80] As a result, Verizon claims that there are no incumbent IP network providers.[81] Verizon is simply wrong.

---

[77] *See, NRIC Comments* at 28.

[78] *See,* Verizon Comments at 9.

[79] *Id*.

[80] *See, id*. at 25.

[81] *See, id*.

The fact that carriers have deployed and are deploying fiber in their networks or are deploying next generation switches or routers does not convert the carriers' networks from "legacy" networks to "next generation" networks. While the technology has changed, that change does not render their ILEC classification and attendant regulatory obligations obsolete, and Verizon cannot be exempted from such obligations.

AT&T makes a similar argument regarding the provision of VoIP service. AT&T claims that a provider of VoIP service is not a "live LEC" and thus is not an ILEC.[82] According to AT&T's assessment, a provider of VoIP service would not be subject to any of the relevant interconnection requirements under Section 251. According to AT&T, the Section 251(c) requirements specific to "ILECs" do not apply, even if affiliated with a legacy telephone company that provides IP-based services by means of new packet switched, fiber-based networks.[83] Thus, AT&T's position relative to VoIP service would effectively foreclose the regulatory entitlement to interconnection as long as its "legacy" LEC operations provide VoIP service. Such a result is baseless, and NRIC is not alone in this conclusion.

NRIC agrees with Sprint's position that the Commission should reject the "no rules/no regulation" proposals such as those proffered by AT&T & Verizon.[84] If the Commission granted the deregulatory relief sought by AT&T and Verizon, Sprint is correct that the Commission would effectively be delegating to the nation's two largest telecommunications firms the authority to determine unilaterally whether and when IP-based voice services are made available

[82] *See,* AT&T Comments at 40.

[83] *Id.* at 37-41.

[84] *See*, Sprint Comments at 10.

to all Americans on a reasonable and timely basis.[85] On this basis alone, AT&T's and Verizon's contentions should be rejected.

To be sure, the interconnection framework for the exchange of traffic under Section 251/252 has been in place for 15 years. There is no need for change in the application of the interconnection framework during the transition from TDM to IP protocols.[86] Application of the 251/252 interconnection framework during the migration from TDM to IP protocol technologies will ensure that those entities possessing the ability to exercise market power are unable to do so in a framework devoid of state commission or Commission oversight.[87]

C. Efforts to Foist Costs on ROR ETCs Through IP-to-IP Interconnection Should be Rejected.

The Commission should reject efforts to allow carriers to foist IP-related interconnection costs upon the ROR ETCs. Based on the comments filed in this proceeding, these efforts take the form of either mandating a limited number of POIs to which IP-based traffic is sent[88] or of foisting traffic conversion costs from IP to TDM upon the carrier – in this case the ROR ETC – that uses TDM transport protocol within its network[89] or having a mandatory sunset of TDM protocol within the PSTN.[90]

The suggestion that the law governing POIs should change because of IP interconnection has no basis. As demonstrated above in Section II.A, *supra*, the Commission should confirm what the Act states – that the POI must be within the network of the ILEC, that there can be no

---

[85] *Id*. at 12.

[86] *See, NRIC Comments* at 25.

[87] *See, id*. at 27.

[88] *See, e.g.*, T-Mobile Comments at 5-6; Sprint Comments at 17-18.

[89] *See, e.g.*, California PUC Comments at 18-19.

[90] *See, e.g.*, T-Mobile Comments at 5-6; XO Comments at 19.

imposition of superior forms of interconnection on the ILEC and that nothing in Section 251(a) or Section 251(b) can impose a greater obligation upon the ROR ETC than the most onerous of interconnection obligations found in Section 251(c). This is the law.[91] The law does not change because of IP-based interconnection. As the Commission has acknowledged, the framework for interconnection under Section 251 is technology neutral;[92] so too are the laws that govern interconnection. The law demands that the Commission reject the efforts to limit the number of POIs as suggested by certain of the commenting parties.

With respect to IP to TDM traffic conversion costs, parties contending that ROR ETCs should bear these costs overlook the practical fact that it is the requesting party that is typically seeking interconnection with a ROR ETC. And, in these instances, the requesting party seeks interconnection with the existing network of a ROR ETC, not an "unbuilt" network,[93] as even Verizon agrees.[94] Thus, the requesting party, not the ROR ETC, should bear the IP to TDM traffic conversion costs.

Finally, and with respect to the contention that there should be a mandatory sunset of TDM within the PSTN, parties making these contentions have not explained how the ROR ETCs' costs to transition from TDM to IP would be recovered, let alone how such a requirement can be reconciled with the Commission's budget for funding the *existing* networks required to meet universal service objectives and requirements. As one commenting party has phrased it, the

---

[91] *See, NRIC Comments* at 22-23 *citing* 47 U.S.C. §§ 251(c)(2)(B) and 251(c)(2)(C) *Iowa Utils. Bd. v. Federal Communications Commission*, 219 F.3d 744, 758 (8th Cir. 2000); *Iowa Utils. Bd. v. F.C.C.*, 120 F.3d 753, 813 (8th Cir. 1997) ("*Iowa -I*") at 813; and *Total Telecommunications* at para. 25.

[92] *See, e.g., FNPRM* at para. 1342.

[93] *See, NRIC Comments* at 22, n.46 *citing Iowa – I,* 120 F.3d at 813.

[94] *See,* Verizon Comments at 32-33.

migration of networks from TDM to IP is "evolutionary not revolutionary."[95] NRIC notes that the PSTN has evolved from step switching to electromechanical switching to digital switching and now to IP-based transport. The natural continuation of this evolution should continue as technology advances and the economics of deployment of such advances allows such investment. Efforts to eliminate the existing TDM networks of ROR ETCs at a date certain and thereby eliminate cost recovery, would create industry chaos and should be rejected.

D. Technical Standards Should be Developed by the Commission.

Finally, NRIC once again requests that the Commission oversee the development and ultimate approval of technical standards associated with the transition to IP-based networks.[96] While Verizon states that the technical standards should be developed based on individual negotiations,[97] that result should only be permitted during the time required for the Commission to review and approve, with public comment, the necessary standards to ensure inter-operability for IP-based networks. As noted by NRIC, in the absence of Commission guidance in this area, inter-operability and call completion issues may arise as carriers deploy IP-based transmission capability deeper within their networks.

V. CONCLUSION

For all of the reasons provided in the foregoing Reply Comments, NRIC respectfully submits that the Commission should adopt and incorporate the positions set forth in the foregoing Reply Comments and in NRIC's Comments filed on February 24, 2012 with regard to Section XVII L through R of the *FNPRM* into its efforts to address the issues raised in the specific sections of the *FNPRM* addressed herein.

---

[95] Ad Hoc Coalition Comments at 4.

[96] *See, NRIC Comments* at 30.

[97] *See,* Verizon Comments at 23.

Dated: March 30, 2012.

Respectfully submitted,

Arlington Telephone Company, The Blair Telephone Company, Cambridge Telephone Company, Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hamilton Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Co., K. & M. Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telecom, Inc., and Three River Telco

The Nebraska Rural Independent Companies

By: Paul M. Schudel

Paul M. Schudel, No. 13723
pschudel@woodsaitken.com
James A. Overcash, No. 18627
jovercash@woodsaitken.com
WOODS & AITKEN LLP
301 South 13th Street, Suite 500
Lincoln, Nebraska 68508
(402) 437-8500

Thomas J. Moorman
tmoorman@woodsaitken.com
Woods & Aitken LLP
2154 Wisconsin Ave. NW, Suite 200
Washington, D.C. 20007
(202) 944-9502
Their Attorneys